IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 2773 OF 2006

National Textile Corporation
(South Maharashtra) Ltd.& Anr..... Petitioners.
Versus
The Secretary, Security Guards
Board for Brihan Mumbai and Thane
Districts, and others. ... Respondents.

Ms. M. H. Doshi for the Petitioners.
Ms. L.S.Desai i/by Ms. Pallavi Divekar
for Respondent No.1.
Mr.Pradeep Jadhav, Assistant Government Pleader,
for Respondent Nos.2 and 3.

CORAM : R. M. LODHA, and
SMT.NISHITA MHATRE, JJ.

DATED : 12TH JANUARY, 2007.

P.C.:

We heard the Counsel for the petitioners.

2. While impugning the order dated 3rd July, 2006 (Exhibit "F"), two fold contention is raised by the Counsel: (1) that on coming into force of the Private Security Agencies (Regulation) Act, 2005 enacted by the Parliament, the Maharashtra Private Security Guards (Regulation of Employment and Welfare) Act, 1981 stands impliedly repelled. In this connection reliance is placed on Article 254 of the Constitution

of India, and (2) that as the concerned mills are closed for many years; these mills have ceased to be 'factory' and, accordingly, the Maharashtra Private Security Guards (Regulation of Employment and Welfare) Act, 1981 is otherwise not maintainable.

3. It is true that the Maharashtra Private Security Guards (Regulation of Employment and Welfare) Act, 1981 is the State enactment and thereafter the Central Legislation enacted the Private Security Agencies (Regulation) Act, 2005 and has come into effect. While the objective of the State Act is regulation of the employment of the private security guards employed in the factories and establishments in the State of Maharashtra and for making better provisions of their terms and conditions of employment and welfare through the establishment of the Board and for matters connected therewith, the underlying object of the Central Legislation is for regulation of the private security agencies so that these agencies do their job within the legal framework and are accountable to the regulatory mechanism as provided in the Act. As a matter of fact, both the Acts, one by the State and the other by the Central, principally operate in different field and can co-exist as there is no repugnancy in the two enactments. Though some small

area may overlap in the two Acts but even with regard to that area, there is no inconsistency or repugnancy and the two enactments can stand side by side. As there is no repugnancy in the two acts, the contention of the Counsel for the petitioners that on coming into force of the Central Legislation the State enactment is impliedly repealed, is devoid of any substance. Moreover, there is no specific prayer in this regard in the writ petition though in the body of the writ petition a reference has been made. Prayers set out in paragraph 29 of the writ petition are for setting aside the order dated 3rd July, 2006; the direction to respondent nos.1 and 2 to cancel registration of the petitioners under the provisions of the Act of 1981 and the direction to respondent no. 2 to frame Rules in consonance with the Private Security Agencies Central Model Rules, 2006. The first contention is, accordingly, overruled.

4. With regard to the second contention, suffice it to say that merely because some of the mills run by the petitioners have been closed for some years, it would not take out those mills out of purview of "Factory" as defined under the Factories Act, 1948. Moreover, the Counsel for the petitioners did not dispute that the petitioners are the ‘principal

employer' within the meaning of the Act of 1981. In this view of the matter the application made by the petitioners for cancellation of the registration of the petitioners being registered as 'principal employer' of the Board was wholly misconceived and cannot be said to have been wrongly rejected.

5. By way of footnote, we may observe that such writ petition by the public sector undertaking results in unnecessary expenditure of the pubic money on avoidable litigation and ought to have been avoided in a case like this. The Managing Director or the Chief Executive of the petitioner - Corporation shall look into this aspect.

6. Writ Petition is, accordingly, dismissed in limine.

Sd/-

(R. M. LODHA, J.)

Sd/-

(SMT.NISHITA MHATRE, J.)